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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/827,466 | 04/19/2004 | Jay Andrew Herbert | 60,298-521;266 | 2971 |

26096 7590 08/29/2007
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| EXAMINER |
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WEINSTEIN, LEONARD J

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| ART UNIT | PAPER NUMBER |
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3746

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| MAIL DATE | DELIVERY MODE |
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08/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---|---------------------------------------|--|
| Office Action Summary | Application No. 10/827,466 | Applicant(s) HERBERT ET AL. | |
| | Examiner Leonard J. Weinstein | Art Unit 3746 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>03/03/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment of May 25, 2007. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-19, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn 2002/0127120 in view of Blotenberg 6,269,299. Hahn teaches the following limitations for a sealed compressor assembly comprising: a compressor pump unit 20 and a motor 24 for driving said compressor pump unit, a housing 21 enclosing said compressor pump unit, a receiver (¶ 0007) for receiving a first signal, and a memory unit 26 in communication with said receiver, said memory unit for storing information relating to said compressor (paragraph 9), said receiver and said memory unit mounted to said compressor (clearly seen in figure 2); a microprocessor in communication with said receiver and said memory unit (¶ 0009); a

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transmitter (§ 0007) in communication with said microprocessor, said transmitter for transmitting a second signal; wherein said information relating to said compressor comprises information relating to the manufacture of said compressor (§ 0018-0020); wherein said information relating to said compressor comprises information relating to the service of said compressor (paragraphs 18-20); wherein said information relating to said compressor comprises information relating to the environment of said compressor (§ 0018-0020); wherein said information relating to said compressor comprises information relating to the use of said compressor (§ 0018-0020); wherein said first signal is an electric signal (§ 0017); wherein said receiver and said memory unit are mounted to said housing (clearly seen in figure 2).

Hahn teaches all of the above cited claim limitations, but fails to teach the following claim limitations taught by Blotenberg: a receiver for receiving a first wireless signal (Abstract); a compressor pump unit with a receiver for receiving an a radio frequency signal (Abstract), including a second receiver 10 and a second transmitter 10, said second receiver and said second transmitter for remote communication with said first receiver 5 and said first transmitter 5 (col. 5 lines 56-67); a second transmitter 10 and a second receiver 10 form part of a portable remote unit (Abstract); a portable remote unit includes a remote unit microprocessor in communication with said second transmitter and said second receiver (Abstract); and a memory unit 7 is independent of a compressor microprocessor, as disclosed by Boletnberg as a first programming device 5 which processes a control command (col. 5 ll. 56-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the second receiver and transmitter in Hahn to enable it the reception of a radio frequency, thus a wireless signal, to portable remote location as a means for adjusting compressor control parameters from a central or off- site location (Blotenberg, col. 3 lines 24-33).

Response to Arguments

5. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

6. In response to applicant's argument that the "control system" as termed by applicant, is not disclosed as being mounted on a compressor. It is noted that examiner has not relied on Blotenberg to teach a receiver or memory unit to be mounted on a compressor. The elements of Blotenberg, a receiver, elements 5 or 10, and a memory unit 7 are analogous to the elements of Hahn disclosed in paragraphs 0007 and 0009 which are mounted on a compressor. Therefore Hahn teaches these elements on a compressor and the motivation for combining Hahn and Blotenberg is grounds that it would be obvious to one of ordinary skill in the art at the time of the invention to modify the second receiver and transmitter in Hahn to enable the reception of a radio frequency, thus a wireless signal, to a portable remote location as a means for adjusting compressor control parameters from a central or off- site location.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are cited on form 892 herewith.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire

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on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard J. Weinstein whose telephone number is 571-272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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